

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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OFFICE OF THE CLERK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
UNION PACIFIC RAILROAD COMPANY,)
)
Defendant.)

Case No. 8:10CV444

**ORDER ON JOINT
STIPULATION OF
PARTIAL DISMISSAL**

Before the Court is the parties' Joint Stipulation of Partial Dismissal pursuant to Rule 41(a) and (c) of the Federal Rules of Civil Procedure. The Court, being fully advised in the premises, finds it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

1. Union Pacific's Administrative Procedure Act, Declaratory Judgment Act, and Constitutional Claims concerning the seizure of the railcars identified in the pleadings are dismissed with prejudice, reserving to Union Pacific the right to challenge future applications of the Tariff Act of 1930 on identical grounds in the event of future seizures. This dismissal applies only to the railcars identified in the pleadings. Reserved for decision by the Court are all other issues as set forth by the pleadings and motions currently pending before the Court, including Union Pacific's claims under the Administrative Procedure Act, Declaratory Judgment Act, and Constitutional Claims challenging the Government's application of 19 U.S.C. §1584.

2. Counterclaim II asserted by the Government is dismissed with prejudice, with the understanding that by so dismissing, the Government does not concede that the District of Nebraska possesses jurisdiction over the seizures of the railcars at issue. In addition, the Government reserves the right to enforce future applications of the Tariff Act of 1930 against Union Pacific on identical grounds in the event of future seizures.

DATED THIS 8 day of June, 2011.

BY THE COURT:


Honorable Joseph F. Bataillon